

Judge temporarily blocks Biden administration's LGBTQ protections at work, schools

The move comes amid a wave of anti-LGBTQ legislation and a renewed political battle over transgender rights

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A federal judge on Friday temporarily blocked enforcement of two Biden administration directives protecting LGBTQ people in schools and workplaces from discrimination, ruling in favor of 20 state attorneys general who claimed in a lawsuit that the guidance infringes upon states' rights.

The move comes amid a wave of measures by conservatives to curtail LGBTQ rights that have alarmed liberal activists as the battle over transgender rights moves to the political forefront.

The two directives, which apply to educational institutions receiving federal funding and most employers, would have extended protections for transgender people to use bathrooms and locker rooms in schools and at work and to join sports teams that correspond to their gender identity.

The states in question have argued that the directives would have put them at risk of losing significant federal funding because of their existing laws.

“Defendants’ guidance directly interferes with and threatens Plaintiff States’ ability to continue enforcing their state laws,” U.S. District Judge Charles Atchley Jr. of the Eastern District of Tennessee wrote in his ruling.

“Their sovereign power to enforce their own legal code is hampered by the issuance of Defendants’ guidance and they face substantial pressure to change their state laws as a result,” he added.

The states represented by the attorneys general are Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee and West Virginia. All of those states have legislatures controlled by Republicans, except Alaska, where an interparty coalition runs the House of Representatives.

The administration's guidance, issued by the Education Department and the Equal Employment Opportunity Commission (EEOC), followed a Supreme Court ruling in 2020 that said a civil rights provision called Title VII, which prohibits job discrimination because of sex, among other categories, includes discrimination on the basis of sexual orientation or gender identity.

The White House, the Education Department and the EEOC did not immediately respond to The Washington Post's requests for comment.

The Education Department's guidance from June 2021 said such discrimination would be treated as a violation of Title IX, a 1972 federal law barring sex discrimination in education, and could result in sanctions for schools, colleges and universities. That month, the EEOC explained in its own guidance what would constitute discrimination against LGBTQ people in the workplace and how members of the public can file a complaint.

Last month, on the 50th anniversary of Title IX, the administration proposed sweeping changes to the law that would bar educational institutions from discriminating against transgender students and amend guidance on how the institutions handle claims of sexual assault and harassment. The Education Department must finalize this rule before it can enforce these protections, and the comment period for the rule runs through September.

Atchley wrote that the injunction will remain in place "pending the final resolution of this matter," or until further orders are given from the district court or higher courts.

The Biden administration, in extending federal protections for LGBTQ students, exercised an authority that "properly belongs to Congress, the States, and the people," according to the attorneys general who filed the lawsuit.

"Defendants would be allowed to use the 'fear of future sanctions' to force 'immediate compliance' with the challenged guidance," Atchley wrote, which he said would cause the states in question "significant hardship."

He agreed with the state attorneys general that the Education Department, in a West Virginia lawsuit, has attempted to enforce its guidance by filing a statement of interest claiming Title IX prohibits the state from preventing transgender girls from participating in girls' athletics.

According to a CNN analysis of American Civil Liberties Union data, 2022 marks a record-breaking year for laws targeting LGBTQ Americans. Through July 1 of this year, at least 162 bills have been introduced across 35 states targeting LGTBQ people — more than double the number considered in 2020 and a higher number so far this year than the 151 bills considered in all of 2021, CNN said. A majority of those bills target transgender and nonbinary people, including around the issues of bathroom use, athletics participation, school curriculums and identification documents.

Earlier this month, more laws went into effect in Indiana, South Dakota, Tennessee and Utah restricting the athletic endeavors in which transgender students can participate. In July, an Alabama law limiting discussions of LGBTQ-related issues in schools and preventing transgender students from using bathrooms and other facilities that align with their gender identity also took effect.

The lawmakers who introduced these measures have argued that they are meant to protect children, promote fairness in sports and other areas, and, as Florida Gov. Ron DeSantis (R) has said, push back on "woke gender ideology."

Liberal activists have decried the laws, which they say aim to erase LGBTQ people and communities from America's cultural narrative. Amid a nationwide mental health crisis in schools, the problem is particularly salient, they say, increasing the risk of social isolation, depression and suicide among LGBTQ students.

